

AMENDED IN SENATE JANUARY 17, 2014

AMENDED IN SENATE JANUARY 6, 2014

SENATE BILL

No. 812

Introduced by Senator De León

February 22, 2013

An act to amend Section 25200 of, and to add Section 25200.20 to, the Health and Safety Code, relating to hazardous waste.

LEGISLATIVE COUNSEL'S DIGEST

SB 812, as amended, De León. Hazardous waste: facilities permitting.

Existing law requires the facilities handling hazardous waste to obtain a permit from the Department of Toxic Substances Control. Existing law requires an owner or operator of the facility intending to renew the facility's permit to submit a complete Part A application for a permit renewal prior to the expiration of the permit. Existing law requires the owner or operator to submit a complete Part B of the application when requested by the department.

~~This bill would require the owner or operator intending to renew the facility's permit to submit a complete Part B application prior to the expiration of the permit.~~ *would instead require the owner or operator of a facility to submit complete Part A and Part B applications for a permit renewal at least 2 years prior to the expiration date of the permit.* The bill would require the department to approve or deny the application for permit renewal within 36 months of the expiration of the facility's permit. The bill would deem an application for permit renewal be denied if the department fails to approve or deny the application within that time period.

Existing law authorizes a hazardous waste facility in existence on a specified date or on the effective date of any statute or regulation that

subjects the facility to the hazardous waste permitting requirements to continue to operate under a grant of interim status pending the review and decision of the department on the permit application.

This bill would provide that interim status granted on or after January 1, 2015, terminates 5 years from the date the interim status is granted or on the date the department took final action on the application for a permit, whichever is earlier.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature finds and declares all of the
2 following:

3 (1) The mission of the Department of Toxic Substances Control,
4 as noted in its mission statement, is “to protect California’s people
5 and environment from harmful effects of toxic substances through
6 the restoration of contaminated resources, enforcement, regulation
7 and pollution prevention.”

8 (2) In an effort to protect the public health and minimize
9 environmental impacts, the state requires that each hazardous waste
10 management facility that treats, stores, handles, or disposes of
11 hazardous waste obtain a permit or other authorization from the
12 department.

13 (3) Currently, the department regulates 117 facilities across the
14 state that store, treat, or dispose of hazardous waste. Of these
15 facilities, nearly a quarter are operating on permits whose original
16 expiration dates have passed.

17 (4) One facility operated by Exide Technologies in Vernon,
18 California has been allowed to operate on an interim permit for
19 over 30 years, regardless of its repeated violations of environmental
20 and public health standards.

21 (5) Unfortunately, many communities continue to suffer with
22 toxic emissions and releases with limited protection from our
23 current hazardous waste management regulatory system.

24 (6) The longstanding problems at the Exide Technologies facility
25 are only the most recent examples of the system’s failures.

26 (b) It is the intent of the Legislature to strengthen our hazardous
27 waste management regulatory system to better protect vulnerable

1 communities and residents from toxic pollution by addressing
2 loopholes in the permitting system.

3 SEC. 2. Section 25200 of the Health and Safety Code is
4 amended to read:

5 25200. (a) The department shall issue hazardous waste
6 facilities permits to use and operate one or more hazardous waste
7 management units at a facility that in the judgment of the
8 department meet the building standards published in the State
9 Building Standards Code relating to hazardous waste facilities and
10 the other standards and requirements adopted pursuant to this
11 chapter. The department shall impose conditions on each hazardous
12 waste facilities permit specifying the types of hazardous wastes
13 that may be accepted for transfer, storage, treatment, or disposal.
14 The department may impose any other conditions on a hazardous
15 waste facilities permit that are consistent with the intent of this
16 chapter.

17 (b) The department may impose, as a condition of a hazardous
18 waste facilities permit, a requirement that the owner or operator
19 of a hazardous waste facility that receives hazardous waste from
20 more than one producer comply with any order of the director that
21 prohibits the facility operator from refusing to accept a hazardous
22 waste based on geographical origin that is authorized to be accepted
23 and may be accepted by the facility without extraordinary hazard.

24 (c) (1) (A) A hazardous waste facilities permit issued by the
25 department shall be for a fixed term, which shall not exceed 10
26 years for any land disposal facility, storage facility, incinerator,
27 or other treatment facility.

28 (B) The owner or operator of a facility intending to extend the
29 term of the facility's permit shall submit a complete Part A and
30 Part B ~~application~~ *applications* for a permit renewal ~~before the~~
31 ~~fixed term of the permit expires.~~ *at least 2 years prior to the*
32 *expiration date of the permit.* Any other relevant information shall
33 be submitted as and when requested by the department.

34 (C) To the extent not inconsistent with the federal act, for an
35 owner or operator in compliance with subparagraph (B), the permit
36 is deemed extended until the renewal application is approved or
37 denied and the owner or operator has exhausted all applicable
38 rights of appeal.

39 (D) (i) The department shall approve or deny the application
40 for permit renewal for a facility within 36 months following the

1 expiration of the permit's fixed term. An application for permit
2 renewal is deemed denied if the department fails to act within 36
3 months following the expiration of the permit's fixed term.

4 (ii) Notwithstanding clause (i), for a facility with a permit that
5 expired on or before January 1, 2015, and for which an application
6 for permit renewal had been submitted before January 1, 2015, the
7 department shall approve or deny the application on or before
8 January 1, 2018. An application for permit renewal is deemed
9 denied if the department fails to act on or before January 1, 2018.

10 (E) This section does not limit or restrict the department's
11 authority to impose any additional or different conditions on an
12 extended permit that are necessary to protect human health and
13 the environment.

14 (F) In adopting new conditions for an extended permit, the
15 department shall follow the applicable permit modification
16 procedures specified in this chapter and the regulations adopted
17 pursuant to this chapter.

18 (G) When prioritizing pending renewal applications for
19 processing and in determining the need for any new conditions on
20 an extended permit, the department shall consider any input
21 received from the public.

22 (2) The department shall review each hazardous waste facilities
23 permit for a land disposal facility five years after the date of
24 issuance or reissuance, and shall modify the permit, as necessary,
25 to assure that the facility continues to comply with the currently
26 applicable requirements of this chapter and the regulations adopted
27 pursuant to this chapter.

28 (3) This subdivision does not prohibit the department from
29 reviewing, modifying, or revoking a permit at any time during its
30 term.

31 (d) (1) When reviewing any application for a permit renewal,
32 the department shall consider improvements in the state of control
33 and measurement technology as well as changes in applicable
34 regulations.

35 (2) Each permit issued or renewed under this section shall
36 contain the terms and conditions that the department determines
37 necessary to protect human health and the environment.

38 (e) A permit issued pursuant to the federal act by the
39 Environmental Protection Agency in the state for which no state
40 hazardous waste facilities permit has been issued shall be deemed

1 to be a state permit enforceable by the department until a state
2 permit is issued. In addition to complying with the terms and
3 conditions specified in a federal permit deemed to be a state permit
4 pursuant to this section, an owner or operator who holds that permit
5 shall comply with the requirements of this chapter and the
6 regulations adopted by the department to implement this chapter.

7 SEC. 3. Section 25200.20 is added to the Health and Safety
8 Code, to read:

9 25200.20. Interim status granted for a facility pursuant to
10 Section 25200.5 on or after January 1, 2015, shall terminate five
11 years from the date the interim status is granted or on the date the
12 department takes final action on the application for a hazardous
13 waste facilities permit, whichever is earlier.